

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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|---|---|---|
| Applicant's or agent's file reference 030244WO | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) | |
| International application No. PCT/US04/04758 | International filing date (day/month/year) 18 February 2004 (18.02.2004) | Priority date (day/month/year) 18 February 2003 (18.02.2003) |
| International Patent Classification (IPC) or national classification and IPC IPC(7): H04B 7/212 and US Cl.: 370/330 | | |
| Applicant QUALCOMM INCORPORATED | | |
| <p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of ___ sheets.</p> <p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application | | |
| Date of submission of the demand 13 September 2004 (13.09.2004) | Date of completion of this report 23 December 2005 (23.12.2005) | |
| Name and mailing address of the IPEA/US Mail the PCT, Attn: IPEA/US Commissioner of Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201 | Authorized officer  Alexander Buskys Telephone No. (571) 272-3183 | |

Form PCT/IPEA/409 (cover sheet)(July 1998)

I. Basis of the report1. With regard to the elements of the international application:^{*}

- the international application as originally filed.
 the description:
 pages 1-42 _____ as originally filed
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____
- the claims:
 pages 42-52 _____ as originally filed
 pages NONE _____, as amended (together with any statement) under Article 19
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____
- the drawings:
 pages 1-10 _____, as originally filed
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____
- the sequence listing part of the description:
 pages NONE _____, as originally filed
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
 the language of publication of the international application (under Rule 48.3(b)).
 the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in printed form.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority in written form.
 furnished subsequently to this Authority in computer readable form.
 The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
 The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages NONE
 the claims, Nos. NONE
 the drawings, sheets/fig NONE

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/US04/04788

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

| | | |
|-------------------------------|--|-----|
| Novelty (N) | Claims <u>1-8, 10-32, 34-46, 48 and 50</u> | YES |
| | Claims <u>9, 33, 47, 49 and 51</u> | NO |
| Inventive Step (IS) | Claims: <u>NONE</u> | YES |
| | Claims <u>9, 33, 47, 49 and 51</u> | NO |
| Industrial Applicability (IA) | Claims <u>1-51</u> | YES |
| | Claims: <u>NONE</u> | NO |

2. CITATIONS AND EXPLANATIONS

Claims 9, 33, 47, 49, and 51 lack novelty under PCT Article 33(2) as being anticipated by Jamal US Patent # 5,754,537.

Regarding claims 9, 33, 47, 49 and 51, Jamal teaches a remote station (column 10, lines 7-8), comprising: a data buffer for receiving data for transmission (column 10, lines 31-34); a message generator for generating an access request message when the data buffer contains data for transmission (column 11, lines 51-53); a receiver for receiving one or more common grant channels from a base station and for receiving a busy signal from the base station (see Fig. 6); a message decoder for decoding an access grant directed to the remote station, the access grant comprising a common grant on one of the one or more common grant channels (column 14, lines 33-36; *the claimed common grant channels are shared channels which are inherent in the access grant*); a transmitter for transmitting the access request message and for transmitting a portion of data from the data buffer in response to a decoded access grant in accordance with the received busy signal (column 11, lines 33-34; column 11, lines 57-63).

Claim 1-8, 22-32, 46, 46-48 and 50 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest.

Regarding claims 1-8, the prior art of record does not teach a scheduler for allocating a portion of the shared resources to zero or more of the requesting remote stations in response to the plurality of access requests, the allocation comprising zero or one common access grant to a subset of the requesting remote stations and for generating a busy signal command in response to the measured utilization. Regarding claims 22-32, the prior art of record does not teach transmitting a busy signal when the measured utilization exceeds a pre-determined threshold. Regarding claims 46, 48 and 50, the prior art of record does not teach means for transmitting a busy signals when the measured utilization exceeds a pre-determined threshold.

Claims 1-51 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

----- NEW CITATIONS -----